APPENDIX J-WELFARE BENEFITS FOR NONCITIZENS

CONTENTS

INTRODUCTION

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) changed almost every aspect of alien eligibility for Federal, State, and local government assistance programs. It established comprehensive new restrictions on the eligibility of legal aliens for means-tested public assistance, and also further restricted public benefits for illegal aliens and nonimmigrants (aliens temporarily here to visit, attend school, or work). Subsequently in the 104th Congress, provisions of the new welfare law were amended, supplemented, and further tightened by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, enacted as division C of the Omnibus Consolidated Appropriations Act of 1997 (Public Law 104-208).

The 1996 changes made in the alien eligibility rules proved controversial, particularly the termination of benefits for those who were receiving Supplemental Security Income (SSI) as of the date the new welfare law was enacted

(August 22, 1996). The termination date for SSI for these recipients was extended from August 22 to September 30, 1997 by Public Law 105-18, signed June 12, 1997. More extensive modifications to the new alienage rules were included in Public Law 105-33, the 1997 Balanced Budget Act (BBA) signed into law on August 5, 1997. The BBA amended the welfare law to provide that legal immigrants who were receiving SSI as of August 22, 1996 will continue to be eligible, regardless of whether their claim was based on disability or age. In addition, qualified aliens who were here by August 22, 1996 and who subsequently become disabled will be eligible for SSI.

Congress also expanded food stamp eligibility in Public Law 105-185, the Agricultural Research, Extension, and Education Reform Act of 1998, to include those legal immigrants who were in the U.S. by August 22, 1996, who were 65 years old or older, who were disabled or subsequently became disabled, or who were under 18 years old. Most recently, the comprehensive legislation that reauthorized Agriculture Department programs (P.L. 107-171) opened up food stamp eligibility to legal permanent residents (LPRs) who meet a 5-year residence test and all LPR children (regardless of date of entry or length of residence).

This appendix begins with a brief discussion of U.S. immigration policy and trends, including naturalization requirements and statistics. A summary of alien eligibility requirements under prior law and a review of the current alien eligibility law follow. An analysis of noncitizen use of Federal benefits over the past few years reveals usage changes since the enactment of the 1996 alien eligibility rules. Provisions relating to verification of status and reporting requirements and concerns about illegal aliens and benefits conclude the appendix.

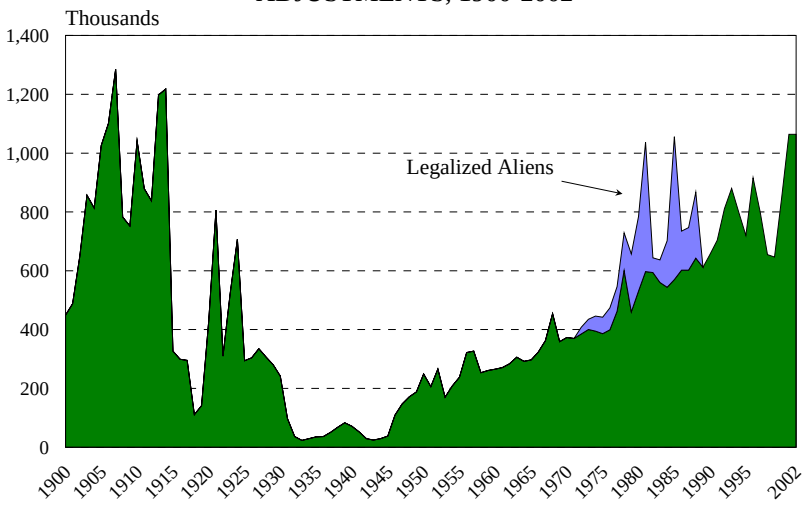
IMMIGRATION AND NATURALIZATION POLICY AND TRENDS

LEGAL IMMIGRATION

Three major traditions underlie U.S. policy on legal immigration: the reunification of families, the admission of immigrants with needed skills, and the protection of refugees. These traditions are implemented through the Immigration and Nationality Act (INA), the basic law regulating the admission of immigrants allowed to reside in the United States permanently. While most foreign nationals, such as tourists, foreign students, international business people, or temporary workers, enter the United States only temporarily, about 1 million aliens become LPRs each year.

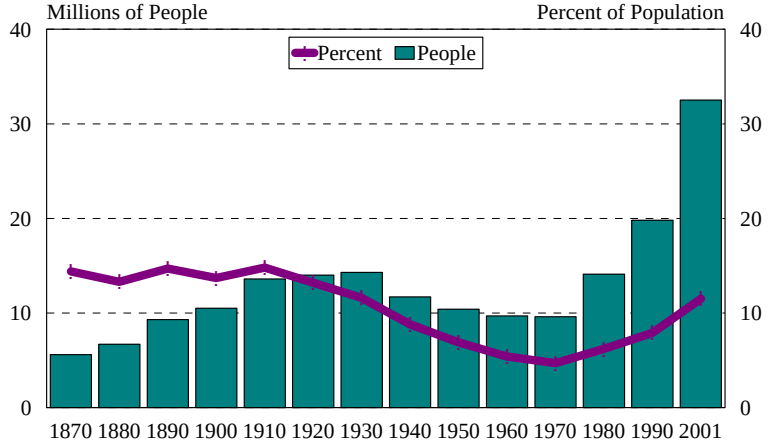
As Chart J-1 shows, the annual number of immigrants to the United States rose gradually after World War II, and approaches immigration levels of the early 20th Century. Chart J-2 illustrates that, although the percent of the population that is foreign born is not as large as during earlier periods, the sheer number—32.5 million in 2001—is at the highest point in U.S. history (Wasem, 2002).

CHART J-1--ANNUAL IMMIGRANT ADMISSIONS AND STATUS ADJUSTMENTS, 1900-2002



Source: CRS presentation of DHS data. Aliens legalizing through the Immigration Reform and Control Act of 1986 are depicted by year of arrival.

CHART J-2—FOREIGN-BORN RESIDENTS OF THE UNITED STATES, 1870-2002



Source: CRS presentation of data from *The Foreign-Born Population: 1994*, by K. A. Hansen & A. Bachu, U.S. Bureau of Census (1995); *The Population of the United States*, by Donald J. Bogue (1985); and the March 2002 Supplement of the CPS.

The growth in immigration after 1980 is partly attributable to the fact that the total number of admissions under the basic system, consisting of immigrants entering through a preference system as well as immediate relatives of U.S. citizens, was augmented considerably by legalized aliens and refugees. These latter two categories together accounted for 35 percent of total immigration during the period 1980-95. The number of refugees admitted increased from 718,000 in the period 1966-80 to 1.6 million during the period 1981-95, after enactment of the Refugee Act of 1980 (Vialet, 1997). In addition, the Immigration Act of 1990 increased the ceiling on employment-based preference immigration, with the provision that unused employment visas would be made available the following year for family preference immigration.

NATURALIZATION

Another tradition of immigration policy is to allow immigrants an opportunity to integrate fully into society. Under U.S. immigration law, all legal permanent resident aliens are potential citizens. To naturalize, aliens must have continuously resided in the United States for 5 years as permanent residents (3 years in the case of spouses of U.S. citizens), show that they have good moral character, demonstrate the ability to read, write, speak, and understand English, and pass an examination on U.S. Government and history. Applicants pay a fee now set at $260 to the U.S. Citizenship and Immigration Services in the Department of Homeland Security (DHS) when they file their materials and have the option of taking a standardized civics test or of having the U.S. Citizenship and Immigration Services examiner test them on civics as part of their interview.

The language requirement is waived for those who are at least 50 years old and have lived in the United States at least 20 years or who are at least 55 years old and have lived in the United States at least 15 years. Special consideration on the civics requirement is given to aliens who are over 65 years old and have lived in the United States for at least 20 years. Both the language and civics requirements are waived for those who are unable to comply due to physical or developmental disabilities or mental impairment. Certain requirements are waived for those who serve in the U.S. military.

The number of immigrants petitioning to naturalize has surged in recent years, jumping from just over half a million applicants in fiscal year 1994 to more than 1 million in fiscal year 1995 (Table J-1). There were an unprecedented 1.6 million petitions in fiscal year 1997, but the number fell to 460,916 petitions in fiscal year 2000. In FY2002, 700,649 LPRs filed naturalization petitions. Estimates of the proportion of LPRs who elect to become citizens vary by the methods in which the data are collected but traditionally have ranged from 30 to 40 percent (Wasem, 1995).

TABLE J-1--NATURALIZATION CASELOAD, 1990-2002

Fiscal year	Petitions filed	Petitions approved	Petitions denied
1990	233,843	270,101	6,516
1991	206,668	308,058	6,268
1992	342,269	240,252	19,293
1993	522,298	314,681	39,931
1994	558,139	417,847	42,574
1995	1,012,538	500,892	49,117
1996	1,347,474	1,148,574	244,001
1997	1,571,797	582,478	130,676
1998	794,749	473,152	137,395
1999	720,468	872,485	380,202
2000	460,916	898,670	399,670
2001	501,646	613,161	218,326
2002	700,649	589,728	139,779

Note: As of September 30, 2002, a total of 623,519 cases were pending.

Source: Immigration and Naturalization Service, Statistics Division.

There are several factors that may account for the increase during the mid-1990s, as well as the general declines since then, in naturalization petitions. Most notable is the 2.8 million aliens who legalized through the Immigration Reform and Control Act of 1986 became eligible to naturalize in the mid-1990s, thus creating a one-time-only surge in the number of people seeking to naturalize. In addition to the Immigration Reform and Control Act legalized population, there has been a steady rise over the past 2 decades in the overall number of legal immigrants to the United States. Indeed, immigration during the 15-year period 1981-95 was almost twice that of the previous 15 years. This increased level of immigration, in turn, has increased the pool of people eligible to naturalize (Vialet, 1997). Finally, some noncitizens may have sought to naturalize in recent years in order to avoid the benefit eligibility restrictions in place since 1996, as discussed below.

ILLEGAL ALIENS

Illegal aliens are those noncitizens who either enter the United States surreptitiously; i.e., enter without inspection, or overstay the term of their nonimmigrant visas (tourist or student visas). Many of these aliens have some type of document – either bogus or expired – and may have cases pending with U.S. Citizenship and Immigration Services. The former U.S. Immigration and Naturalization Service (INS) estimated that there were 7.0 million unauthorized aliens in the United States in 2000. Demographers at the Census Bureau and the Urban Institute estimated the unauthorized population in 2000 at 8.7 and 8.5 million respectively, but these latter estimates included “quasi-legal” aliens who had LPR

petitions pending or had gotten relief from deportation (Passel, 2001).

According to the data analysis of the former INS, ten States accounted for 80.0 percent of the illegal population, led by California at 31.6 percent. The other States, in order, were Texas (14.9 percent), New York (7.0 percent), Illinois (6.2 percent), Florida (4.8 percent), Arizona (4.0 percent), Georgia (3.3 percent), New Jersey (3.2 percent), North Carolina (2.9 percent), and Colorado (2.1 percent). Mexico dominated the sending countries at 68.7 percent, followed by El Salvador (2.7 percent), Guatemala (2.1 percent), Colombia (2.0 percent), and Honduras (2.0 percent) (U.S. Immigration and Naturalization Service).

CURRENT FOREIGN-BORN RESIDENTS

The most comprehensive source of information on the foreign born is the U.S. Census Bureau's March Current Population Survey (CPS). The Census Bureau conducts the CPS each month to collect labor force data about the civilian noninstitutionalized population. The March Supplement of the CPS gathers additional data about income, education, household characteristics, and geographic mobility. Because the CPS is a sample of the U.S. population, the results are necessarily estimates. While the data distinguish between the foreign born who have naturalized and those who have not, it does not distinguish between types of noncitizens (e.g., permanent, temporary, or illegal).

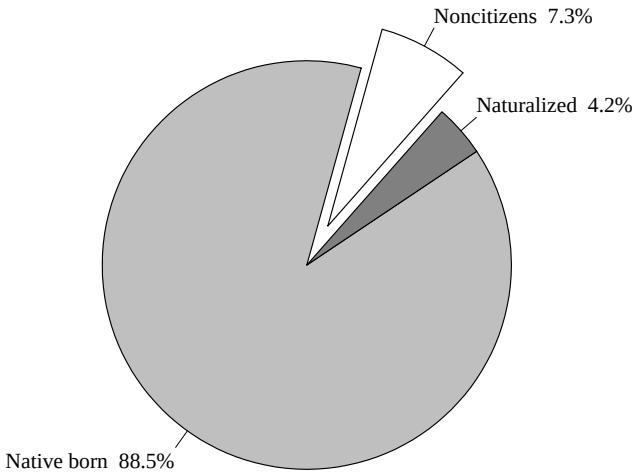
The 2002 CPS found that about 11.5 percent of U.S. residents were foreign born (7.3 percent noncitizens and 4.2 percent naturalized citizens; Chart J-3). There were 32.5 million foreign-born persons living in the United States, of which 37 percent or 12.0 million had become naturalized citizens. This total foreign-born population was up from 24.6 million persons in 1996, and the number of naturalized persons had increased from 7.9 million in 1996.

Based on self-reported data contained in the 1996 and 1998 CPS, the number of foreign-born persons naturalized increased 23 percent over this period, in comparison to only a 7 percent increase in the number of foreign-born persons and a 1.8 percent increase in the U.S. population. The rate of naturalization increases proportionately with the length of residence. Of persons arriving since 1990, 9.2 percent have naturalized. This rate increases to 32.4 percent for those who arrived during the 1980s, and 55.2 percent among those who arrived during the 1970s (Teran & Wasem, 1999).

Region of Origin

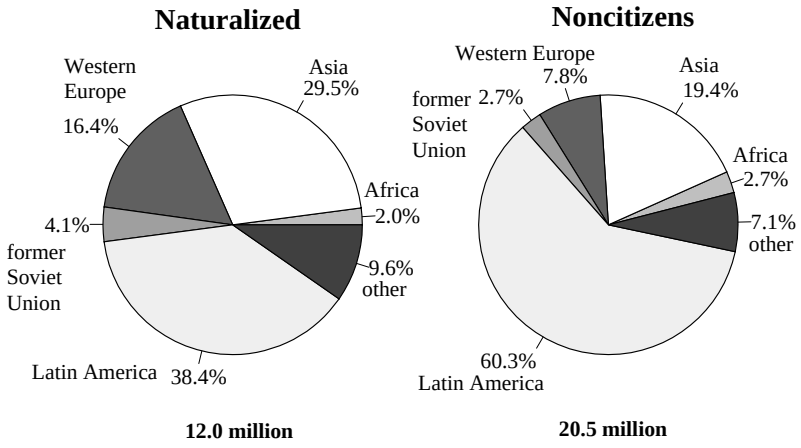
Estimates from the latest CPS indicate that of the total noncitizen population, the largest percentage (60.3 percent) arrived from Latin America, which includes Mexico and Central America, South America, and the Caribbean region. The second largest group of noncitizens immigrated from Asia (19.4 percent). Those immigrants who naturalized likewise came in a similar rank order from those regions of the world, but the proportions are not as sharply skewed toward Latin America and Asia (Chart J-4).

CHART J-3—CITIZENSHIP STATUS OF U.S. RESIDENTS, 2001



Source: CRS analysis of March Supplement of Current Population Survey, 2002

CHART J-4--PERCENTAGE OF FOREIGN-BORN BY WORLD REGION OF ORIGIN, 2001



Source: CRS analysis of March Supplement of Current Population Survey, 2002.

Region and State of Residence

The western part of the United States is home to the largest proportion (39.2 percent) of noncitizens (Table J-2). Over a quarter (29.4 percent) of noncitizens live in the South, and just under a quarter (21.4 percent) live in the Northeast. About 10 percent of noncitizens reside in the Midwest. By State of residence, over one-fourth (28.5 percent) of all noncitizens live in the State of California. The State with the next largest portion of noncitizens is New York (11.0 percent). Texas is home to 10.5 percent, and Florida is the home of 8.7 percent of all noncitizens. The only other States with noteworthy shares of noncitizens are New Jersey (4.7 percent) and Illinois (4.0 percent).

TABLE J-2--PERCENTAGE OF ALL NATIVE AND FOREIGN-BORN RESIDENTS LIVING IN SIX STATES AND FOUR REGIONS, 1998

State/region	Citizen status		
	Native	Naturalized	Noncitizen
State:			
California	10.2	27.5	28.5
New York	6.0	14.3	11.0
Texas	7.4	7.1	10.5
Florida	5.3	10.3	8.7
New Jersey	2.8	5.0	4.7
Illinois	4.0	4.3	4.0
Region:			
Northeast	18.4	26.1	21.4
Midwest	24.2	11.4	10.1
South	36.7	26.2	29.4
West	20.8	36.4	39.2
Total population (millions)	249.6	12.0	20.5

Source: CRS analysis of the 2002 CPS March Supplement.

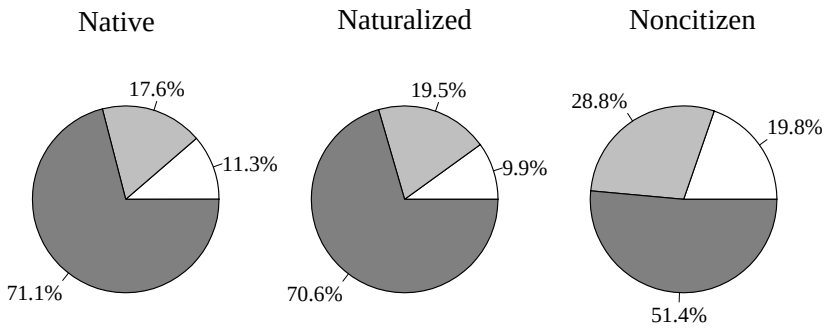
Poverty Levels

Citizens—whether native born or naturalized—differ sharply from noncitizens in terms of poverty levels. As Chart J-5 illustrates, just under half of noncitizens sampled in the CPS were below 200 percent of the poverty level in 2001 and 19.8 percent were below 100 percent of the poverty level. By contrast, only about 29 percent of native and naturalized citizens are below 200 percent of the poverty level, and only 11.3 percent of natives and 9.9 percent of naturalized citizens are below 100 percent of the poverty level. There are a variety of factors that contribute to this variation, not the least of which are education levels and length of time in the United States.

NONCITIZENS' ELIGIBILITY FOR BENEFITS PRIOR TO 1996

Except for the general prohibition on aliens becoming public charges, to be discussed below, prior to 1996 there was no uniform rule governing which categories of noncitizens were eligible for benefits, and no single statute where the rules were described. Alien eligibility requirements, if any, were set forth in the laws and regulations governing the individual Federal assistance programs. Summarizing briefly, lawful permanent residents (i.e., immigrants) and other noncitizens who were legally present on a permanent basis (e.g., refugees) were generally eligible for Federal benefits on the same basis as citizens. With the single exception of emergency Medicaid, illegal aliens were barred from participation in all the major Federal assistance programs that had statutory provisions for noncitizens, as were tourists and most other aliens here legally in a temporary status (nonimmigrants).

CHART J-5--POVERTY LEVELS BY CITIZENSHIP STATUS, 2001



Source: CRS analysis of March Supplement of Current Population Survey, 2002.

However, many income, health, education, nutrition, and social service programs did not include specific provisions regarding alien eligibility; even illegal aliens were potential participants. These programs included, for example, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), child nutrition programs, earned income credits, migrant health centers, and the Social Services Block Grant (SSBG).

"PUBLIC CHARGE" AND DEVELOPMENT OF ELIGIBILITY STANDARDS

Opposition to the entry of foreign paupers and aliens "likely at any time to become a public charge"—language found in the INA today—dates from colonial times. The colony of Massachusetts enacted legislation in 1645 prohibiting the entry of paupers, and in 1700 excluding the infirm unless security was given against their becoming public charges. New York adopted a similar practice. A bar against the admission of "any person unable to take care of himself or herself without becoming a public charge" was included in the act of August 3, 1882, the first general Federal immigration law.

Preceding the 1996 legislation, applicants for immigrant status could meet the public charge requirement based on their own funds, prearranged or prospective employment, or an affidavit of support. Affidavits of support were submitted by one or more residents of the United States in order to provide assurance that the applicant for entry would be supported in this country. Starting in the 1930s and continuing until the 1980s, affidavits of support were administratively required by INS but had no specific basis in statute or regulation. Court decisions beginning in the 1950s generally held that affidavits of support were not legally binding on the U.S. resident sponsors (*Department of Mental Hygiene v. Renal*, 6 N.Y. 2d 791 (1959); *State v. Binder*, 356 Mich. 73 (1959)). The unenforceability of affidavits of support led to the adoption of legislation in the late 1970s and early 1980s intended to make them more effective.

Despite immigration policy explicitly designed to exclude potential public charges, Federal assistance laws for specific programs contained no eligibility restrictions based on immigration status until the early 1970s. In the absence of Federal law, State governments enacted restrictions, usually durational residency requirements, on the eligibility of legal aliens for assistance under State or joint Federal-State programs. However, in the landmark 1971 decision *Graham v. Richardson* (403 U.S. 365), the U.S. Supreme Court declared these State restrictions to be unconstitutional. The Supreme Court found that they violated the equal protection clause of the 14th amendment and that they encroached upon the exclusive Federal power to regulate immigration.

Beginning with the new SSI Program in 1972, Federal statutory and regulatory alien eligibility criteria were established for the major Federal assistance programs. In addition to meeting the financial need and family structure criteria applicable to U.S. citizens, noncitizens were required either to be lawfully admitted for permanent residence, or otherwise "permanently residing in the United States under color of law," in order to be eligible for SSI, Aid to Families with Dependent Children (AFDC), Medicaid, or food stamps. These criteria were adopted with the intent of barring participation by temporary nonimmigrants and particularly by illegal aliens.

In response to concerns about the unenforceability of affidavits of support and the perceived abuse of the welfare system by some newly arrived immigrants, legislation was enacted in the early 1980s limiting the availability of SSI, AFDC, and food stamps to sponsored immigrants. The authorizing legislation for the three

programs was amended to provide that, for the purpose of determining financial eligibility, immigrants who had used an affidavit of support to meet the public charge requirement would be deemed to have some portion of their immigration sponsors' income and resources available to them. The sponsor-to-alien deeming period was set at 3 years for the three programs. To help finance legislation providing extended unemployment benefits, this period was temporarily increased from 3 years to 5 years for SSI, effective January 1, 1994-October 1, 1996. For those immigrants still covered under the pre-1996 rules, the duration of SSI deeming has reverted to 3 years.

The 1996 welfare and immigration reform laws significantly expanded the use of sponsor-to-alien deeming as a means of restricting the participation of new immigrants in Federal means-tested programs. It also established new, legally enforceable responsibilities for sponsors who pledge support through affidavits of support. Both deeming and the affidavits of support upon which deeming is based are intended to implement the provision of the INA that excludes aliens who appear "likely at any time to become a public charge."

STATE AND LOCAL LAW BEFORE 1996

In 1971, the Supreme Court held in *Graham v. Richardson* that the equal protection clause and the exclusive authority of Congress to regulate immigration barred States from distinguishing between citizens and legal aliens in providing State-funded or joint Federal-State benefits. More recently, the Supreme Court has recognized that States do have some authority to enact laws that adversely affect illegal aliens, at least where these laws mirror Federal immigration policy. However, this authority is circumscribed. In 1982, the Supreme Court held in *Plyler v. Doe* (457 U.S. 202) that States could not deny illegal alien children a free public education, in part because of the absence of Federal guidance on the issue.

State regulation of alien access to State and local assistance programs continued to be governed by the *Graham* and *Plyler* decisions. For example, several State supreme courts cited *Graham* to overturn State laws that imposed sponsor-to-alien deeming under State cash assistance programs. In a later example, a U.S. district court judge overturned large parts of California's proposition 187, a ballot initiative that denied illegal aliens education and other State-provided services (*League of United Latin American Citizens v. Wilson*, 908 F. Supp. 755 (C.D. Cal. 1995)). Though the judge ruled that the State did have leeway to deny illegal aliens many services (not including elementary and secondary education), she also held that the State could not make its own determinations of the legality of individuals' immigration status nor impose its own alienage standards on services funded at least in part with Federal funds.

Because *Graham* left little leeway for State regulation of legal permanent residents, the States were required to provide needy permanent residents with the same assistance they provided needy citizens. This practice also was true under joint Federal-State programs, such as AFDC and Medicaid, which were governed by broad Federal alien eligibility rules even though the Federal Government funded

only a portion of assistance. Broad alien eligibility rules set by Congress also indirectly triggered entitlement to significant State SSI supplements. Also, States could not differentiate between legal aliens and citizens under State-funded General Assistance (GA) Programs. According to an October 1996 report by the Urban Institute, cash or in-kind assistance was provided to the needy under GA Programs in all or part of 41 States (Uccello et al., 1996).

Exercising their broader authority with regard to illegal aliens, the GA laws of 36 States limited eligibility to citizens and legal residents. Though many States had thus attempted to limit expenditures for illegal aliens, some of the largest State outlays for illegal aliens—elementary and secondary education, for example—remained beyond State control.

1996-2002 LEGISLATIVE REVISIONS

In the 1996 welfare reform law (Public Law 104-193), Congress drew a sharp distinction between citizens and noncitizens in determining eligibility for welfare programs. Congress also concluded that the primary responsibility for assisting needy immigrants should be borne by the immigrants' sponsors rather than the government. To their authors, the new restrictions were a logical extension of the policies historically embodied by the public charge provision. Thus, most noncitizens were made ineligible for federally financed welfare benefits, effective during the summer and fall of 1997. Only a few categories of legal immigrants were left eligible (see below).

Public Law 105-33, BBA 1997, modified the 1996 legislation's policy of restricting alien eligibility for Federal benefits; however, these modifications were limited in scope. Only two programs, SSI, which provides cash assistance for needy persons who are aged, blind, or disabled, and, to a lesser degree, Medicaid, were substantially affected by the changes to noncitizens' benefits in the BBA. Similarly, Congress expanded food stamp provisions in Public Law 105-185, the Agricultural Research, Extension, and Education Reform Act of 1998 to include legal immigrants who were here by August 22, 1996, and who were 65 years old or older, who were disabled or subsequently became disabled, or who were under 18 years old. Generally, only noncitizens here before August 22, 1996, the enactment date of the 1996 welfare law, were affected by the 1997-98 modifications (except for new entries who benefit from a 2-year extension of refugee eligibility). The comprehensive legislation that reauthorized Agriculture Department programs (P.L. 107-171) opened up food stamp eligibility to legal permanent residents (LPRs) who meet a 5-year residence test and all LPR children (regardless of date of entry or length of residence), comparable to the State-exercised options for Temporary Assistance for Needy Families (TANF) discussed below. The basic policy laid out by the 1996 welfare law remains essentially unchanged for noncitizens entering after its enactment.

ALIEN ELIGIBILITY FOR FEDERAL ASSISTANCE

As revised in 1997, 1998, and 2002, the 1996 welfare law and, to a lesser extent, the 1996 immigration law, restricted alien eligibility for Federal benefits in three basic ways:

1. They barred access to programs conditioned on alien status;
2. They required legally binding affidavits of support from immigrants' sponsors; and
3. They required that sponsors' income be deemed available to immigrants in determining eligibility for most means-tested programs.

PROGRAM BARS

Until 1996, aliens who were lawful permanent residents or who were otherwise legally present on a permanent basis (e.g., refugees) were generally eligible for Federal benefits on the same basis as citizens. The 1996 welfare law, however, added new rules barring "qualified aliens" from participation in Federal assistance programs. Qualified aliens include aliens admitted for legal permanent residence (also known as immigrants), refugees, aliens paroled into the United States for at least 1 year, and aliens granted asylum or related relief. The 1996 immigration law added certain abused spouses and children as another class of qualified aliens, and BBA 1997 added Cuban/Haitian entrants (the terms "qualified alien" and "legal immigrant" are used interchangeably in this appendix). The laws made several exceptions to their eligibility changes, so that the restrictions discussed below do not apply to qualified aliens who are veterans or certain active duty personnel and their spouses and dependent unmarried children, or those who meet a 10-year work requirement. In order to satisfy the work requirement, the immigrant must meet a 40 qualifying quarters test. As defined by the 1996 welfare reform law, a qualifying quarter is a 3-month work period with sufficient income to qualify as a Social Security quarter and, with respect to periods beginning after 1996, during which the worker did not receive Federal means-tested assistance. Work performed by the alien, the alien's parent while the alien was under age 18, and the alien's spouse (provided the alien remains married to the spouse or the spouse is deceased) all may be counted as qualifying quarters.

The rules barring legal immigrants from benefits fall into three general categories, summarized below. It should be noted that none of these rules apply to aliens once they become naturalized citizens. The effect of these rules as they apply to SSI, food stamps, Medicaid, Temporary Assistance for Needy Families (TANF), and SSBG is summarized in Table J-3, together with the change from the law prior to 1996.

TABLE J-3—ALIEN ELIGIBILITY FOR SELECTED FEDERAL PROGRAMS

Alien category	Supplemental Security Income	Food Stamps	Medicaid	TANF (formerly AFDC) and Title XX Social Services Block Grant
Immigrants:[1]				
Eligibility under prior law....	Yes, with deeming.[2]	Yes, with deeming.[2]	Yes.....	Yes, with deeming for AFDC.[2]
Eligibility under current law.				
a) Here before 8/22/96 (Public law 104-193 enactment)	Yes, if on rolls 8/22/96 or disabled subsequently.	Yes, if on rolls 8/22/96 and if 65 or older at that time, disabled or disabled subsequently; if resided 5 years in U.S. or under 18.	Yes, for SSI-derivative benefits or emergency services. Otherwise State option.	State option with Federal money.
b) New entrants – 1st 5 years after arrival	No[3]	No.....	Emergency only……..	Not with Federal money; States may use State money.
c) New after 5 years	No[3]	Yes……	Yes, for emergency services. Otherwise State option, with deeming.	State option with Federal money and deeming.
Refugees and Asylees:[4]				
Eligibility under prior law....	Yes.....	Yes.....	Yes.....	Yes.
Eligibility under current law —1st 7 years after entry or grant of asylum	Yes.....	Yes.....	Yes.....	Yes.
Nonimmigrants[5] and undocumented aliens:[6]				
Eligibility under prior law...	No.....	No.....	Emergency only.....	SSBG only.
Eligibility under current law.	No.....	No.....	Emergency only.....	No.

[1] "Immigrants" – Also known as permanent residents and green card holders. May live here indefinitely unless they commit a deportable act. Parolees admitted temporarily for at least 1 year under the Attorney General's immigration parole power may receive the same benefits.
[2] "Deeming" – refers to the attribution of the sponsor's income to the immigrant in determining financial eligibility, and is applied to SSI, food stamps, and AFDC (replaced by TANF) for 3 years after entry (5 years for the period 1/1/94-10/1/96).
[3] Lawful permanent residents who have 40 QCs or who in combination with their parents or spouses have a total of 40 QCs may be eligible for SSI beginning 5 years after their entry to the United States.
[4] "Refugees and asylees" – status is based on individualized persecution abroad, and they adjust to legal permanent residents after 1 year and are treated as other "qualified aliens" after 7 years. This category also includes Cuban/Haitian entrants and Amerasians.
[5] "Nonimmigrants" – admitted temporarily for a limited purpose. Includes e.g., students, visitors, and temporary workers.
[6] Also known as illegal aliens. Includes aliens here in violation of immigration law for whom no legal relief has been extended.
Note- Hmong immigrants and certain Native Americans living along the Mexican and Canadian borders have special access to programs, according to the program Statutes.
Source: Congressional Research Service.

PERMANENT BAR

Congress imposed a permanent bar to access by legal immigrants who entered the United States after August 22, 1996, to two federally financed programs. These programs are SSI, which provides cash aid for needy persons who are aged, blind, or disabled; and food stamps, which provides certain low-income households with monthly benefits to enable them to afford more adequate diets. P.L. 107-171 lifted the food stamp bar for all LPR children, regardless of date of entry (it also ends requirements to deem sponsors' income and resources to these children); LPRs receiving government disability payments, so long as they pass any noncitizen eligibility test established by the disability program (e.g., SSI recipients would have to meet SSI noncitizen requirements in order to get food stamps); and all individuals who have resided in the U.S. for 5 or more years as "qualified aliens" — i.e., LPRs, refugees/asylees, and other non-temporary legal residents (such as Cuban/Haitian entrants).

STATE OPTION

The second set of restrictions generally applies to three major Federal/State grant programs: Medicaid, TANF, and SSBG. Medicaid provides medical assistance for low-income persons who are aged, blind, or disabled, or members of needy families with dependent children. TANF is a block grant program established by the 1996 welfare reform law. TANF provides Federal funds to States for temporary cash and other assistance for needy families. SSBG is also a State block grant program, providing Federal funds to States for social services aimed at preventing dependency and remedying problems associated with it.

States may permit or prohibit participation by legal immigrants who entered the United States before enactment of the welfare law (August 22, 1996) from Medicaid, TANF, and SSBG. Legal immigrants entering the United States after August 22, 1996, are barred for 5 years from all benefits under these programs except emergency medical assistance. Legal immigrants ineligible for TANF, however, may receive State-funded benefits if they meet other program requirements in over half of the States. After 5 years, the decision as to whether legal immigrants may participate in Medicaid, TANF, and SSBG rests with the States, subject to a rule deeming sponsors' income and resources to be available to the immigrant, as discussed below. Many States, including those with large noncitizen populations such as California, offer a full array of public assistance to legal immigrants not eligible for federally financed benefits. As of December 2002, 24 States report using their State "maintenance of effort" money to provide public assistance to newly arriving LPRs who are barred from Federal TANF for the first 5 years.

The 5-year bar discussed previously does not apply to refugees and asylees, nor does the State option to restrict Medicaid benefits apply to them in the same manner that it does to immigrants. Refugees and asylees who meet the other program criteria are eligible for full Medicaid benefits for 7 years after entering as refugees or being granted asylum; they are eligible for TANF and SSBG benefits for 5 years.

After these respective periods of time, refugees and asylees are subject to the same State option provision that applies to legal immigrants.

State options also are available under food stamp law, and as of December 2002, 13 States report that they provide food assistance to noncitizens who are not covered by the Federal food stamps program. The number of States reporting that they provide their own food assistance program for noncitizens is down from 16 States as of December 2000.

Finally, States have the option to grant or deny any child nutrition benefits (e.g., Summer Feeding Programs, meals in day care programs, and WIC, but not school meals), commodity supplemental and emergency food benefits, and commodity benefits for Indians on reservations based on alien status.

OTHER PROGRAMS

Most qualified aliens arriving after August 22, 1996, are barred from most other Federal means-tested programs for 5 years after their arrival. Their participation after that time is subject to sponsor-to-alien deeming, as it is for Medicaid, TANF, and SSBG. However, a number of programs are exempt from both the 5-year bar and sponsor-to-alien deeming (Table J-4). These include:

1. Treatment under Medicaid for emergency medical conditions (other than those related to an organ transplant);
2. Short-term, in-kind emergency disaster relief;
3. Assistance under the National School Lunch Act and the Child Nutrition Act;
4. Immunizations against diseases and testing for and treatment of symptoms of communicable diseases;
5. Foster care and adoption assistance under title IV of the Social Security Act, unless the foster parent or adoptive parent is an alien other than a qualified alien;
6. Education assistance under the Elementary and Secondary Education Act of 1965, specified titles of the Higher Education Act of 1965, or specified titles of the Public Health Service Act;
7. Benefits under the Head Start Act;
8. Benefits under the Job Training Partnership Act; and
9. Services or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelters) designated by the Attorney General as delivering in-kind services at the community level, providing assistance without individual determinations of each recipient's needs, and being necessary for the protection of life and safety.

Emergency services, school meals, and community-level services are available for all aliens; other nutrition programs may be provided to any alien at State option. The Attorney General published a list defining non-cash community-level services exempt from the various prohibitions (*Federal Register*, 1996). Among other services, it includes senior nutrition programs, such as Meals on Wheels.

EXPANDED SPONSOR-TO-ALIEN DEEMING AND AFFIDAVITS OF SUPPORT

The other two restrictions on alien access to public benefits included in the 1996 welfare and immigration laws are legally binding affidavits of support and sponsor-to-alien deeming rules. Both are expansions of prior law and practice, and both have their roots in the public charge provision, which has been a feature of U.S. immigration law since 1882.

Affidavits of Support

The Immigration and Nationality Act (INA) was amended in 1996 by the addition of a new section 213A, which provides a statutory basis for affidavits of support and greatly extends their scope, as compared with pre-1996 law:

1. It makes them legally binding documents effective either until the sponsored immigrant naturalizes or meets the 40-quarter work requirement;
2. It requires affidavits of all family-based immigrants and employment-based immigrants coming to work for relatives;
3. It requires sponsors to have an income of at least 125 percent of the Federal poverty level and to agree to support the sponsored immigrant with resources that would equal at least 125 percent of the poverty level; and
4. It provides that both government agencies and sponsored immigrants can sue sponsors for failure to meet their obligations.

Expanded Deeming Rules

A significant difference from pre-1996 law is that all the sponsor's income and resources and that of the sponsor's spouse is deemed to be available to the immigrant in determining financial eligibility. Coupled with the fact that government agencies providing benefits to sponsored immigrants are legally entitled to sue the sponsors, the clear intent of the new deeming provisions is to all but bar sponsored immigrants from participation in means-tested programs. The sponsor, rather than the Federal Government, is expected to be financially responsible for immigrants who need assistance as the sponsor promised as a condition of the immigrant’s entry in the U.S.

The sponsor-to-alien deeming rules also have been expanded in terms of duration and the number of programs and immigrants covered.

1. Deeming remains in effect until the immigrant naturalizes or meets the 40-quarter work requirement;
2. Deeming rules apply to all Federal means-tested programs except those expressly exempted by law (and to Supplemental Security Income (SSI) and food stamps, from which immigrants are barred). The excepted programs are the same as those exempted from the 5-year bar (Table J-4);
3. Deeming applies to all sponsored immigrants, a group expanded by the immigration law's requirement that all family-based immigrants have affidavits of support.

Federal Benefits

The 1996 welfare reform law denies most Federal benefits, regardless of whether they are means tested, to illegal aliens. The class of benefits denied is broad and covers grants, contracts, loans, and licenses as well as retirement, welfare, health, disability, housing, food, unemployment, postsecondary education, and similar benefits. So defined, this bar covers many programs whose enabling statutes do not individually make citizenship or immigration status a criterion for participation. Thus, programs that previously were not individually restricted—the earned income credit, SSBG, and migrant health centers, for example—became unavailable to illegal aliens, unless they fall within the act's limited exceptions

These programmatic exceptions include:

1. Treatment under Medicaid for emergency medical conditions (other than those related to an organ transplant);
2. Short-term, in-kind emergency disaster relief;
3. Immunizations against immunizable diseases and testing for and treatment of symptoms of communicable diseases;
4. Services or assistance (such as soup kitchens, crisis counseling, and intervention, and short-term shelters) designated by the Attorney General as delivering in-kind services at the community level, providing assistance without individual determinations of each recipient's needs, and being necessary for the protection of life and safety (see above); and
5. To the extent that an alien was receiving assistance on the date of enactment, programs administered by the Secretary of the U.S. Department of Housing and Urban Development, programs under title V of the Housing Act of 1949, and assistance under section 306C of the Consolidated Farm and Rural Development Act. Subtitle E of title V of the Illegal Immigration Reform and Immigrant Responsibility Act (Public Law 104-208) later facilitated the removal of illegal aliens from housing assistance.

The 1996 welfare reform law also permits illegal aliens to receive Old-Age, Survivors, and Disability Insurance benefits under title II of the Social Security Act if the benefits are protected by that title or by a treaty or are paid under applications made before August 22, 1996. The act also states that individuals who are eligible for free public education benefits under State and local law shall remain eligible to receive school lunch and school breakfast benefits. (The act itself does not address a State's obligation to grant all aliens equal access to education under the Supreme Court's decision in *Plyler v. Doe*.) Beyond these nutrition benefits, the act neither prohibits nor requires a State to provide illegal aliens other benefits funded under the National School Lunch Act, the Emergency Food Assistance Act, or similar food programs.

TABLE J-4 - ALIEN ELIGIBILITY PROVISIONS FOR SELECTED FEDERAL BENEFITS UNDER CURRENT WELFARE AND IMMIGRATION LAWS

Provision	Qualified aliens regardless of entry date	Qualified aliens entering after 8/22/96	Nonqualified aliens
Restricted programs	Food stamps for 5 years after entry, unless under age 18, or age 65 or older by 8/22/96, or subsequently disabled; SSI, unless on rolls by 8/22/96 or here then and later disabled. At State option:[1] Temporary Assistance for Needy Families, Social Services Block Grant, and Medicaid (other than emergency services and SSI-related).	For 5 years after entry, Federal means tested public benefits (with exceptions below). Thereafter the restrictions in the left column apply.	Most Federal public benefits (with exceptions noted below).
Programs excepted from restrictions	"Qualified aliens" here before 8/22/96 not barred by alienage status from programs other than those listed above.	Emergency medical services, disaster relief, public health assistance, community services, school lunch, child nutrition, foster care and adoption assistance, Head Start, certain job training, elementary, secondary, and higher education, and Public Health Service Act education assistance.	Emergency medical services, disaster relief, public health assistance, community services, housing assistance received at enactment, Social Security and Medicare benefits for lawful aliens, and school lunch and breakfast. Other child nutrition and food distribution programs at State option. (Does not change law regarding public education.)

Individuals excepted from restrictions	Refugees and asylees - 7 years for SSI, Medicaid, and food stamps and 5 years for other programs; immigrants with 40 Social Security work quarters (including quarters worked by a spouse/parent);[2] and alien veterans, certain active duty personnel, and families.	Refugees and asylees (as in left column); immigrants with 40 Social Security work quarters worked by spouse/parent; [2]and alien veterans, certain active duty personnel, and families.	Nonimmigrants only for contracts or licenses related to their authorized employment, and for benefits under reciprocal treaty agreements.
Modification of sponsor-to-alien deeming	Now deeming rules only applicable to qualified aliens entering after 8/22/96 and with affidavits complying with new INA requirements - see next column.	After 5-year bar, for Federal means tested programs until alien naturalizes or has 40 Social Security work quarters (including quarters worked by a spouse/parent);[2] with exceptions similar to 5-year bar.	Not applicable.

[1] State option begins 5 years after entry for qualified aliens entering after August 22, 1996.

[2] For quarters worked after 1996, no quarter during which the alien received public assistance may be counted toward the 40-quarter exception.

Note: Hmong immigrants and certain Native Americans living along the Mexican and Canadian borders have special access to programs, according to program statutes.

Source: Congressional Research Service.

State Benefits

Unlike earlier Federal law, the 1996 welfare reforms expressly bar illegal aliens from most State- and locally-funded benefits. The restrictions on these benefits parallel the restrictions on Federal benefits. Illegal aliens generally are barred from State and local government contracts, licenses, grants, loans, and assistance. Exceptions also are similar to those for Federal means-tested programs.

The restrictions on State and local benefits do not apply to activities that are funded in part by Federal funds; these activities are regulated under the 1996 law as Federal benefits. Furthermore, the law states that nothing in it is to be construed as addressing eligibility for basic public education. Finally, the 1996 law allows the States, through enactment of new State laws, to provide illegal aliens with State and local benefits that otherwise are restricted.

Despite the federally imposed bar and the State flexibility provided by the 1996 law, States still may be required to expend a significant amount of State funds for illegal aliens. Public elementary and secondary education for illegal aliens remains compelled by judicial decision, and payment for emergency medical services for illegal aliens remains compelled by Federal law. Meanwhile, certain other costs attributable to illegal aliens, such as criminal justice costs, result from the continued presence of illegal aliens.

NONCITIZENS' USE OF FEDERAL ASSISTANCE PROGRAMS

Some of the concern with the use of public assistance by legal immigrants began in 1993 in response to a study by the Social Security Administration (SSA). The subject was the use of SSI by legal aliens entering either as lawfully admitted immigrants or “under color of law.” SSA found that permanent legal aliens made up more than 25 percent of aged SSI recipients. Subsequent data presented by SSA indicated a steady increase from 1982 through 1995 in the number and percentage of lawfully admitted aliens receiving SSI, and an increased percentage of total beneficiaries who were legal aliens. Significant numbers of refugees were being admitted during this period. Legal aliens entering “under color of law,” most of whom were refugees, accounted for 26 percent of the total number of legal alien SSI recipients in December 1995 (Ponce, 1996).

In the ensuing years, the question of whether legal immigrants disproportionately relied on public assistance arose frequently, and empirical research, such as the SSA study discussed above, yielded qualified responses of "sometimes" and "under certain circumstances." Following the substantial revisions of welfare law in 1996-98, the question of whether public assistance usage by legal immigrants has changed as a result of the new eligibility rules has come to the fore. This section draws on analysis of administrative program participation data and the CPS to explore this question.

Supplemental Security Income (SSI)

The percentage of the SSI caseload represented by noncitizens has held steady in recent years, after rising sharply in the 1980s and early 1990s (Table J-5). It stood at 10.4 percent or 703,515 participants in 2002 after peaking at 12.1 percent or 785,410 participants in 1995. In 2002, noncitizens accounted for about 29.1 percent of all aged SSI recipients, down from a high of 32.0 percent in 1995. Noncitizens accounted for 6.1 percent of disabled (or blind) recipients in 2002. As Table J-5 shows, even after the implementation of reforms in the mid-1990s, more noncitizens currently receive SSI benefits than in any year prior to 1994.

TABLE J-5--NUMBER OF NONCITIZENS RECEIVING SSI PAYMENTS AND NONCITIZEN RECIPIENTS AS A PERCENT OF ALL SSI RECIPIENTS BY ELIGIBILITY CATEGORY, 1982-2002

	Total		Aged		Blind and Disabled	
	Noncitizens	Percent of Total SSI	Noncitizens	Percent of Total SSI	Noncitizens	Percent of Total SSI
1982	127,900	3.3	91,900	5.9	36,000	1.6
1983	151,200	3.9	106,600	7.0	44,600	1.9
1984	181,100	4.5	127,600	8.3	53,500	2.1
1985	210,800	5.1	146,500	9.7	64,300	2.4
1986	244,300	5.7	165,300	11.2	79,000	2.8
1987	282,500	6.4	188,000	12.9	94,500	3.2
1988	320,300	7.2	213,900	14.9	106,400	3.5
1989	370,300	8.1	245,700	17.1	124,600	4.0
1990	435,600	9.0	282,400	19.4	153,200	4.6
1991	519,660	10.2	329,690	22.5	189,970	5.2
1992	601,430	10.8	372,930	25.4	228,500	5.6
1993	683,150	11.4	416,420	28.2	266,730	5.9
1994	738,140	11.7	440,000	30.0	298,140	6.2
1995	785,410	12.1	459,220	31.8	326,190	6.3
1996	724,990	11.0	417,360	29.5	307,630	5.9
1997	650,830	10.0	367,200	27.0	283,630	5.5
1998	669,630	10.2	364,980	27.4	304,650	5.8
2000	692,650	10.4	364,470	28.3	328,120	6.2
2001	695,650	10.5	364,550	28.9	331,100	6.1
2002	703,515	10.4	364,827	29.1	338,688	6.1

Note-Data as of December for each year.
Source: Social Security Administration

The largest concentration of noncitizens who received SSI benefits lived in California (260,520) in 2001. New York was second with 110,340 noncitizen SSI

recipients. Florida and Texas followed with 65,400 and 54,800 noncitizen recipients respectively.

Although noncitizens from Latin America comprised an estimated 60.3 percent of noncitizens in the United States, they accounted for only 44.2 percent of the SSI noncitizen caseload in 2001. Noncitizens from Asia were an estimated 19.4 percent of noncitizen residents, but made up 33.4 percent of noncitizens who receive SSI. Noncitizens from the former Soviet Union were an estimated 2.7 percent of noncitizens in the United States, yet they were 10.9 percent of all noncitizens receiving SSI. These data lend weight to the view that noncitizens from refugee-sending parts of the world are more likely to rely on SSI. Table J-6 presents the country of origin for SSI recipients in 2001.

TABLE J-6 -- NONCITIZENS BY REGION AND COUNTRY OF ORIGIN, DECEMBER 2001

Region and country of origin	Total	Aged	Blind and disabled
All noncitizen recipients	695,850	364,550	331,300
North America	3,030	910	2,120
Canada	3,030	910	2,120
Central America	168,910	89,980	78,930
Mexico	142,470	74,380	68,090
El Salvador	11,390	7,220	4,170
Guatemala	4,610	2,780	1,830
Other	10,440	5,600	4,840
South America	22,130	14,240	7,890
Colombia	6,720	4,090	2,630
Ecuador	5,650	3,370	2,280
Peru	4,930	3,850	1,080
Other	4,830	2,930	1,900
Caribbean	116,570	54,850	61,720
Cuba	48,630	24,410	24,220
Dominican Republic	38,640	15,120	23,520
Haiti	12,380	7,500	4,880
Other	16,920	7,820	9,100
Africa	10,050	4,540	5,510
Somalia	2,770	1,250	1,520
Cape Verde Islands	1,120	760	360
Ethiopia	1,520	550	970
Other	4,640	1,980	2,660
Asia	232,380	124,960	107,420
Vietnam	51,690	21,260	30,430
China	32,350	27,060	5,290
Laos	25,140	5,280	19,860
Philippines	21,000	16,280	4,720

TABLE J-6 -- NONCITIZENS BY REGION AND COUNTRY OF ORIGIN, DECEMBER 2001-continued

Region and country of origin	Total	Aged	Blind and disabled
Cambodia	19,530	3,100	16,430
Korea	18,990	13,850	5,140
Iran	22,020	13,460	8,560
Other	41,660	27,670	16,990
Middle East	14,340	7,440	6,900
Lebanon	3,750	1,940	1,810
Syria	2,740	1,390	1,350
Turkey	1,910	1,400	510
Other	5,940	2,710	3,230
Former Soviet Republics	75,890	41,620	34,270
Europe	37,380	18,090	19,290
Portugal	4,950	2,990	1,960
Bosnia	5,110	1,690	3,420
Italy	3,400	1,700	1,700
United Kingdom	3,700	1,800	1,900
Yugoslavia	3,030	1,530	1,500
Other	17,190	8,380	8,810
Oceania	2,590	1,150	1,440
Unknown	12,380	6,770	5,610

Source: SSI 10-Percent Sample.

Family Cash Assistance

The U.S. Department of Health and Human Services data on characteristics of TANF/AFDC recipients indicate that, as a percentage of total adult TANF/AFDC recipients, noncitizens legally in the United States who receive TANF/AFDC increased from 7.0 percent in fiscal year 1989 to 12.3 percent in fiscal year 1996. The percentage of noncitizens then dropped to 11.0 percent in 1998 and ultimately fell to 8.0 percent in 2001. (U.S. Department of Health and Human Services, 1990, 1997, 1999, 2003). Since the AFDC/TANF recipient data are more limited than SSI recipient data, tables detailing characteristics and components of noncitizen usage are not available.

Once again, California tops the list of States with high welfare participation by noncitizens. Fully 16.9 percent of its 278,069 TANF recipients were noncitizens in 2001 (Table J-7). Calculated in terms of percentage of all adult noncitizens receiving TANF, Californians comprised 41.8 percent of adult noncitizens in the United States on TANF in 2001. New York followed California with 12.3 percent of its 189,299 recipients who were adult noncitizens or 20.7 percent of noncitizens in the United States on TANF. Texas and Minnesota were a distant third and fourth with 7.4 percent and 5.2 percent respectively of adult noncitizens in the United States on TANF, with 8.9 percent and 16.8 percent of their States' caseload respectively who were noncitizens.

Food Stamps

The 10-year pattern for noncitizens receiving food stamps resembles that of SSI and AFDC/TANF. Specifically, food stamp participation by noncitizens rose during the early 1990s, then dropped off by 1998, at which time there were approximately 616,000 noncitizens receiving food stamps. After enactment of welfare reform in 1996, the percentage of food stamp recipients who were noncitizens fell to a 10 year low of 3.1 percent in 1998. It stood at 3.7 percent in 2001. The peak occurred in 1996 when 1,847,000 noncitizens comprised 7.1 percent of the 25,926,000 food stamp recipients (Table J-8).

TABLE J-7--TEMPORARY ASSISTANCE FOR NEEDY FAMILIES - ACTIVE CASES PERCENT DISTRIBUTION OF TANF ADULT RECIPIENTS BY CITIZENSHIP STATUS
OCTOBER 2000 - SEPTEMBER 2001

State	Total Adults	U.S. Citizen	Qualified Alien	Unknown
U.S. Total	1,408,752	91.5	8.0	0.5
Alabama	8,972	100.0	0.0	0.0
Alaska	5,462	93.9	6.1	0.0
Arizona	18,952	92.4	7.5	0.0
Arkansas	6,957	99.7	0.3	0.0
California	278,069	83.0	16.9	0.1
Colorado	6,619	99.7	0.3	0.0
Connecticut	16,907	95.7	4.3	0.0
Delaware	3,245	98.9	1.1	0.0
District of Columbia	12,144	99.1	0.9	0.0
Florida	24,823	87.8	12.2	0.0
Georgia	25,608	99.3	0.6	0.1
Hawaii	11,067	98.8	1.2	0.0
Idaho	361	98.0	2.0	0.0
Illinois	38,483	99.1	0.8	0.1
Indiana	32,539	99.4	0.6	0.0
Iowa	17,584	100.0	0.0	0.0
Kansas	9,496	97.8	2.2	0.0
Kentucky	22,448	98.9	1.1	0.0
Louisiana	13,756	99.6	0.4	0.0
Maine	7,864	96.3	3.7	0.0
Maryland	17,000	99.0	1.0	0.0
Massachusetts	27,202	87.2	12.8	0.0
Michigan	48,989	96.8	3.2	0.0
Minnesota	34,851	83.2	16.8	0.0
Mississippi	7,920	100.0	0.0	0.0
Missouri	34,635	97.3	2.7	0.0
Montana	4,782	99.4	0.4	0.2
Nebraska	6,265	96.5	3.5	0.0
Nevada	4,282	94.9	4.9	0.2
New Hampshire	4,274	96.5	3.5	0.0
New Jersey	27,915	95.8	4.2	0.0
New Mexico	17,136	92.1	7.9	0.0

TABLE J-7--TEMPORARY ASSISTANCE FOR NEEDY FAMILIES - ACTIVE CASES PERCENT DISTRIBUTION OF TANF ADULT RECIPIENTS BY CITIZENSHIP STATUS OCTOBER 2000 - SEPTEMBER 2001-continued

State	Total Adults	U.S. Citizen	Qualified Alien	Unknown
New York	189,299	84.8	12.3	2.9
North Carolina	21,414	96.4	1.4	2.2
North Dakota	2,216	97.9	2.1	0.0
Ohio	50,982	97.7	2.3	0.0
Oklahoma	8,067	99.6	0.2	0.2
Oregon	8,869	94.0	4.9	1.0
Pennsylvania	58,471	96.9	3.1	0.0
Puerto Rico	23,266	99.0	1.0	0.0
Rhode Island	12,808	85.1	14.9	0.0
South Carolina	9,655	99.9	0.1	0.0
South Dakota	1,209	100.0	0.0	0.0
Tennessee	42,456	99.7	0.3	0.0
Texas	93,313	91.1	8.9	0.0
Utah	5,269	95.5	4.4	0.1
Vermont	5,183	98.6	1.4	0.0
Virgin Islands	677	88.9	9.7	1.3
Virginia	16,788	98.3	1.7	0.0
Washington	43,282	87.0	11.0	2.0
West Virginia	12,612	99.9	0.1	0.0
Wisconsin	6,149	100.0	0.0	0.0
Wyoming	162	99.8	0.2	0.0

Source: National TANF data file as of May 15, 2002.

TABLE J-8--NONCITIZENS AS A PERCENT OF ALL FOOD STAMP RECIPIENTS, 1989-2001

Year	Percent
1989	4.4
1990	4.7
1991	5.1
1992	5.0
1993	5.3
1994	6.7
1995	NA
1996	7.1
1997	5.5
1998	3.1
1999	4.1
2000	4.4
2001	3.7

Source: Fiscal Year 2001 Food Stamp Quality Control sample.

California is the State with the largest number of noncitizens receiving food stamps, 138,000 in 2001. Its share of all noncitizens nationwide receiving food stamps was 21.6 percent. New York, Florida, and Texas followed with 16.7, 12.3,

and 10.6 percent respectively of all noncitizens receiving food stamps in 2001.

ANALYSIS OF CURRENT POPULATION SURVEY (CPS) DATA

In 1995, the Congressional Research Service (CRS) analyzed data from the March 1994 CPS (the first CPS to ask participants about their citizenship status) that indicated that, as compared with the native born, the foreign born were significantly more likely to use SSI, but were not significantly more likely to use AFDC or food stamps. In the AFDC, Food Stamp, and Medicaid Programs at that time, noncitizens had higher participation rates than the native born, but naturalized citizens had lower participation rates than the native born. However, in the SSI Program both noncitizens and naturalized citizens had higher participation rates than native-born citizens. This finding was especially true among the aged population (O'Grady, 1995).

In addition to the elderly, another major subgroup of the foreign born using welfare appears to be noncitizens from refugee-sending countries. While the 1995 CRS study did not disaggregate refugees, Urban Institute analysts did try to do so in 1996 Senate testimony. Based also on the March 1994 CPS, they found that 13.1 percent of foreign born from the major refugee-sending countries used AFDC, SSI, or general assistance (GA), compared to 5.8 percent of foreign born from other countries (Fix et al., 1996).

The Urban Institute has continued to analyze the CPS for noncitizen use of welfare and found changes in usage from 1994 to 1997. Based on receipt of AFDC/TANF, SSI, and GA, a later Urban Institute Study (Fix & Passel, 1999) found that:

1. Use of public benefits among noncitizen households fell more sharply than among citizen households between 1994 and 1997, 34 percent versus 14 percent;
2. Those noncitizens imputed to be refugees experienced declines (33 percent) that were at least as steep as other noncitizens despite the fact that most refugees continued to be eligible for benefits in 1997;
3. Noncitizen households accounted for a disproportionately large share of the overall decline in welfare caseloads that occurred between 1994 and 1997;
4. Welfare usage among elderly immigrants and naturalized citizens did not appear to change between 1994 and 1997; and
5. Neither naturalization nor rising incomes accounted for a significant share of noncitizens'exits from public benefit use.

Similarly, CPS data show a decline in Medicaid use by citizen children of noncitizen parents. Specifically, between 1995 and 1997, the number of citizen children on Medicaid fell 6 percent. Research by the Urban Institute in Los Angeles showed that the number of citizen children approved for Medicaid through TANF enrollment fell by 48 percent between January 1996 and January 1998 (Zimmerman & Fix, 1998).

CRS analysis of the March 1999 CPS (for 1998) and the March 2002 CPS (for 2001) indicated that public assistance usage has declined generally from 1995 to 2001. Although CPS data are self-reported and generally understate the actual

number of program beneficiaries, it appears that the March Supplement's underreporting is quite pronounced when compared to the administrative program participation data analyzed above. Nonetheless, the downward trends in usage are consistent with those observed previously and are comparable to the general findings of the Urban Institute and others.

One of the intriguing findings from the latest data is that the general declines in welfare use are not consistent across the programs or among the three citizenship groupings. The benefit use patterns for naturalized persons in the CPS samples, for example, offer exceptions to the general trends (Table J-9). While benefit receipt decreased for noncitizens in all four selected programs, and for natives in all but SSI, the participation of naturalized citizens went up noticeably in SSI and Medicaid.

The estimated percent of the cash welfare recipients (AFDC, TANF, or GA) who were noncitizens held virtually constant between 1995 (11.8 percent) and 1998 (11.8 percent), and then rose in 2001 (12.4 percent) (Table J-9). The estimated proportion of welfare recipients who were naturalized increased from 2.3 percent in 1995 to 3.9 percent 1998, then fell slightly to 3.7 percent in 2001. The percentage of cash welfare recipients who were native born dropped from 86.0 percent in 1995 to 83.8 percent in 2001.

Estimates of SSI usage from the CPS suggest a different pattern, one in which noncitizen usage decreased by 44 percent from 1995 to 2001, but usage by naturalized citizens rose by 117 perent over the same period. Recipiency among the naturalized increased as a percentage of SSI recipients from 3.9 percent to 8.1 percent over the 6-year period while noncitizens dropped from 9.9 percent to 5.3 percent (Table J-9). SSI recipiency held virtually constant among natives.

Generally Medicaid usage was down for everyone but naturalized citizens, but it is important to note that reporting of Medicaid use in the CPS is plagued with problems. Although Medicaid usage offers little overall change in the distribution of recipients reported in the CPS, there were noteworthy changes in each of the citizenship categories. Estimated use by naturalized citizens rose from 1.7 percent in 1995 to 3.5 percent in 2001, while estimated use by noncitizens declined from 8.0 percent in 1995 to 6.3 percent in 2001 (Table J-9). Among natives, it remained at much the same levels over the 6-year period.

CPS estimates of households receiving food stamps indicated a decline for native born and noncitizens, but rose for naturalized citizens from 1995 to 2001(Table J-9). Estimated use by naturalized citizens rose from 1.6 percent in 1995 to 3.1 percent in 2001, while estimated use by noncitizens declined from 8.9 percent in 1995 to 6.7 percent in 2001 (Table J-9). The percentage of noncitizen households that received food stamps went from 14.9 percent to 5.8 percent, experiencing the largest decline (61 percent), but native households followed closely with a 39 percent decline from 10.5 percent in 1995 to 6.4 percent in 2001.

As in the 1995 CRS study, this CRS analysis focused on three categories of citizenship status: (1) native born citizens; (2) naturalized citizens; and (3)

TABLE J-9—ESTIMATED BENEFIT USAGE BY CITIZENSHIP CATEGORIES: 1995, 1998, 2001

	Native				Naturalized				Noncitizens			
	1995	1998	2001	1995-2001 change	1995	1998	2001	1995-2001 change	1995	1998	2001	1995-2001 change
Estimated number of recipients (in millions)												
AFDC/TANF	4.25	2.51	1.74	-59%	0.11	0.11	0.08	-27%	0.58	0.35	0.26	-55%
SSI	4.15	4.20	4.33	4%	0.19	0.32	0.41	116%	0.47	0.38	0.26	-45%
Medicaid	28.53	25.06	28.30	-1%	0.55	0.79	1.09	98%	2.54	1.80	1.99	-22%
Food Stamps	25.11	21.85	16.01	-36%	0.44	0.44	0.55	25%	2.48	1.47	1.19	-52%
Total population	239.2	244.6	249.1	4.1%	7.9	9.9	12.0	52%	16.6	16.6	16.6	0%
Percent of total recipients by citizenship category												
AFDC/TANF	86.0	84.4	83.8	-3%	2.3	3.9	3.7	61%	11.8	11.8	12.4	5%
SSI	86.2	85.8	86.6	0%	3.9	6.5	8.1	108%	9.9	7.8	5.3	-46%
Medicaid	90.2	90.6	90.2	0%	1.7	2.8	3.5	106%	8.0	6.5	6.3	-21%
Food Stamps	89.6	90.6	90.2	1%	1.6	2.2	3.1	94%	8.9	7.2	6.7	-25%
Percent of receipt within citizenship category												
AFDC/TANF	2.3	1.3	0.9	-61%	1.5	1.2	0.7	-53%	3.9	2.3	1.4	-64%
SSI	2.3	2.3	2.3	0%	2.4	3.3	3.5	46%	3.2	2.5	1.4	-56%
Medicaid	11.9	10.2	11.4	-4%	6.9	8.0	9.1	32%	15.3	10.9	9.7	-37%
Food stamps	10.5	7.6	6.4	-39%	5.6	4.5	4.6	-18%	14.9	8.9	5.8	-61%

Source: CPS March Supplements, 1996, 1999, 2002

noncitizens. The use of these citizenship categories, in contrast to the Urban Institute's groupings of citizens, immigrants, and aliens from refugee-sending countries, may account for some of the differences in results. CRS' disaggregation of SSI from the other welfare benefits of AFDC, TANF, and GA also may affect the results because use of SSI by the three citizenship status categories showed divergent patterns as compared with welfare use over time.

VERIFICATION OF STATUS AND REPORTING REQUIREMENTS

The increase in the number of programs and classes of aliens affected by the 1996 welfare reform law has necessitated an expansion of previous procedures for verifying alien eligibility for benefits. For example, the Social Services Block Grant (SSBG) Program now is barred to newly arrived "qualified aliens," whereas in the past it was not subject to any alienage restrictions.

The Systematic Alien Verification for Entitlements (SAVE) Program authorized by the Immigration Reform and Control Act of 1986 has been the primary means of verifying eligibility for many major Federal benefits. Under SAVE, applicants who stated that they were not citizens were required to have their status verified through a database of U.S. Bureau of Citizenship and Immigration Services (USBCIS) files. If this primary verification was unsuccessful, manual secondary verification by USBCIS officials was conducted. Both Federal and State governments were critical of the time needed to complete secondary verifications. Because the SAVE database was limited to aliens, it also was criticized as being vulnerable to circumvention by false citizenship claims.

The 1996 welfare reform law and subsequent amendments in the Balanced Budget Act (BBA) of 1997 (Public Law 105-33) included new verification and reporting requirements. These are supplemented by provisions in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and by immigration enforcement legislation enacted as part of the Omnibus Consolidated Appropriations Act of 1997 (Public Law 104-208).

VERIFICATION REQUIREMENTS

1. The welfare reform law requires the Attorney General to adopt regulations to verify that individuals who apply for Federal public benefits are qualified aliens and eligible for assistance. As amended by the Illegal Immigration Reform and Immigrant Responsibility Act, the welfare reform law also requires the Attorney General to establish fair and nondiscriminatory procedures on proving citizenship when applying for a Federal public benefit.
2. States that administer a program which provides a restricted federally assisted benefit must have a verification program that complies with the above regulations within 24 months of their adoption.
3. The 1996 immigration law amended the welfare law to allow nonprofit charitable organizations to provide Federal, State, and local public benefits

without having to verify the immigration status of the recipients.

4. The 1996 immigration law amended the Social Security and Higher Education Acts to require the transmittal to USBCIS of copies of documents required to verify eligibility for Social Security and Higher Education assistance.
5. Public Law 105-33 authorized State and local governments to verify the eligibility of individuals for State and local public benefits.
6. Public Law 105-33 requires the Attorney General, within 90 days of its enactment, to issue interim verification guidance and to adopt regulations on procedures to be used by States and local governments for determining whether applicants are subject to the new federally imposed bars on State and local benefits; i.e., for verifying that alien applicants are qualified aliens, nonimmigrants, or short-term parolees.

REPORTING REQUIREMENTS

1. The welfare law requires the following entities to provide USBCIS at least four times annually and at USBCIS' request the name, address, and other information they have regarding each individual whom they know is in the United States unlawfully: (1) States receiving block grants for TANF; (2) the Commissioner of Social Security; (3) States operating under agreements for the payment of SSI State supplements through the Federal Government; (4) the Secretary of the U.S. Department of Housing and Urban Development; and (5) public housing agencies operating under contracts for assistance under sections 6 or 8 of the U.S. Housing Act of 1937.
2. Separately, the welfare reform law states that no State or local entity may be prohibited or in any way restricted from sending to or receiving from the USBCIS information regarding an individual's immigration status.
3. The immigration law requires the Attorney General to notify, not later than 180 days after the end of each fiscal year, the House and Senate Judiciary Committees and the Inspector General of the Department of Justice on the number of public charge deportations, the number of sponsors determined to be indigent, and the number of reimbursement actions brought under affidavits of support.

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